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August 11, 2023

VIA E-FILING

Honorable Hector Gonzalez, U.S.D.J.
United States District Court
for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: **Becky Pund, et al. v. SFC College, et al.**
Civil Action No. 1:23-cv-1498-HG

Dear Judge Gonzalez:

As the Court is aware, this firm represents the Plaintiffs, Becky Pund and Charles Pund, in the above-referenced matter. Please accept this letter to address the Court's Order, dated July 28, 2023, which in pertinent part, requests that Plaintiffs explain certain issues related to the service and jurisdiction requirements in this case.

First, the Court has asked that Plaintiffs explain their "efforts to serve Defendant John Thurston or, alternatively, indicat[e] whether counsel for the other Defendants have stated that they intend to represent Defendant Thurston and have agreed to accept or waive service on his behalf." Not having heard back from counsel for the other Defendants after initially asking if they represented Defendant Thurston, I followed up on August 1, 2023 with a similar question. Counsel for the other Defendants responded that "[a]t this time, [they] have not been retained to represent Mr. Thurston." Accordingly, I conducted a due diligence search to locate Defendant Thurston and engaged a process server to attempt service at an address in Jersey City, New Jersey. With the Court's more recent Order, dated August 8, 2023, I immediately instructed the process server to hold in serving that set of papers, so that I can provide them with the Second Amended Complaint that the Court has ordered should be filed by August 15, 2023. As soon as the updated filing is made, I will provide the process server with the new set of papers and renewed instructions to attempt to serve Defendant Thurston at what I believe should be his current address. In turn, I will file an Affidavit of Service with the Court as soon as service on Defendant Thurston is confirmed.

Second, the Court has asked that Plaintiffs explain the “basis for asserting, by invoking the Court’s diversity jurisdiction, that none of the John Doe Defendants are citizens of New Jersey.” Candidly, given that Defendants Irma Garcia and John Thurston appear to be residents of New Jersey, Plaintiffs cannot represent that none of the John Doe Defendants, who Plaintiffs expect will be assistant coaches, trainers, members and/or agents of the administration of Defendant St. Francis College, may be citizens of New Jersey as well. That said, Plaintiff’s Second Amended Complaint will establish subject matter jurisdiction through *28 U.S.C. §1332 (Federal Question)*, thereby confirming that this matter should remain in federal court. Plaintiffs will make every effort to identify the John Doe Defendants as soon as possible and in compliance with the Court’s Orders.

Lastly, the Court has asked that Plaintiffs file a Declaration from Becky Pund that establishes her residency through, among other things, identifying where she has lived since graduating from New York University, and in connection therewith, where she has spent her time, voted, filed taxes, and registered any vehicle that she drives. Presumably, this requirement becomes moot if diversity jurisdiction is no longer a concern for the Court, but in the interest of compliance with the Court’s Order, this office is filing under separate cover with today’s date that requested Declaration, which in pertinent part, explains that following the unlawful actions of Defendants, Ms. Pund had no choice but to move back home to live with her father during her enrollment at New York University and that she has continued to live in that same home to this day. To the extent the Court requires additional itemized detail than what is provided, a supplemental Declaration with more specificity can and will be provided.

Thank you for the Court’s continuing attention to and guidance in this matter.

Respectfully submitted,

s / James P. Gianakis

James P. Gianakis

cc: Ryan Soebke, Esq. (via e-filing)
Ariel Ronneburger, Esq. (via e-filing)